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DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[CIS No. 2532-13; DHS Docket No. USCIS-2006-0068]

Introduction of a New Version of Employment Eligibility Verification Form

AGENCY: U.S. Citizenship and Immigration Services, DHS.

ACTION: Notice.

SUMMARY: U.S. Citizenship and Immigration Services (USCIS) is announcing a new version of Form I-9, Employment Eligibility Verification. Employers must use Form I-9 to verify the identity and employment authorization of their employees. USCIS made minor changes to the form and its instructions. This Notice contains the dates of both the prior version and the new version of Form I-9 that employers may use, as well as the date when the prior version will become obsolete.

DATES: Form I-9, Employment Eligibility Verification, with a version date of “(Rev. 10/21/2019)” is available for use beginning **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. The prior version of Form I-9 (Rev. 07/17/2017 N) will be obsolete effective **[INSERT DATE 90 DAYS FROM THE DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

FOR FURTHER INFORMATION CONTACT: Oscar Lujan, Associate Chief, Policy, Programs, and Guidance, Verification Division, Immigration Records and Identity Services, U.S. Citizenship and Immigration Services, U.S. Department of Homeland Security, 131 M Street NE, Suite 200, Mail Stop 2600, Washington DC 20529. Employers can contact the Form I-9 Contact Center at 888-464-4218 (TTY: 877-875-6028) and employees can call 888-897-7781

(TTY: 877-875-6028) for more information. The public can also email the Form I-9 Contact Center at i-9central@dhs.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Employers and certain agricultural recruiters and referrers for a fee (referred to collectively as employers in this notice) must verify the identity and employment authorization of each individual they hire for employment in the United States on Form I-9, Employment Eligibility Verification.

Form I-9 contains three sections. Section 1 of the form collects, at the time of hire, identifying information about the employee (and preparer or translator if used), and requires the employee to attest to whether he or she is a U.S. citizen, noncitizen national, lawful permanent resident, or alien authorized to work in the United States.

Section 2 of the form collects, within 3 days of the employee's hire, identifying information about the employer and information regarding the employee's identity and employment authorization. The employee must present original documentation evidencing his or her identity and employment authorization, which the employer must review.

Section 3 of the form is primarily used to verify the continued employment authorization of the employee. This section, if applicable, is completed at the time that the employee's employment authorization and/or employment authorization documentation recorded in either Section 1 or Section 2 of the form expires. This section may also be used if the employee is rehired within 3 years of the date of the initial completion of the form and to document a name change if Section 3 is otherwise completed.

Employers must maintain Forms I-9 for as long as an individual works for the employer and for the required retention period after the termination of an individual's employment (either 3 years after the date of hire or 1 year after the date employment ended, whichever is later). Also, employers must make their employees' Forms I-9 available for inspection upon request by officers of the Department of Homeland Security (DHS), the Immigrant and Employee Rights Section (IER) in the Department of Justice's Civil Rights Division, and the Department of Labor. An employer's failure to ensure proper completion and retention of Forms I-9 may subject the employer to civil money penalties, and, in some cases, criminal penalties.

On March 1, 2019, USCIS published a 60-day information collection notice in the Federal Register at 84 FR 7101 inviting the public to comment on a proposed extension without change of the Form I-9 and renewal request of the information collection to the Office of Management and Budget (OMB) as required by the Paperwork Reduction Act of 1995. USCIS received and responded to 21 comments on the 60-day notice. On June 5, 2019, USCIS published a second notice at 84 FR 26140 inviting the public to comment on the proposed extension without change of the Form I-9 for a 30-day period. USCIS included proposed non-substantive updates in the online docket for the information collection. USCIS determined that these non-substantive updates do not change the affected population nor the time or cost burden imposed on the respondents, and therefore qualified as an extension without change. On October 21, 2019, OMB approved a three-year extension without change of the updated Form I-9. See OMB No. 1615-0047 at www.reginfo.gov.

II. Changes to Form I-9

In the newly updated Form I-9, USCIS added Eswatini and North Macedonia to the Country of Issuance field in Section 1 and the foreign passport issuing authority field in Section

2 per those countries' recent name changes. These changes are only visible when completing the fillable Form I-9 on a computer.

USCIS updated the following in the form instructions:

- Clarified who can act as an authorized representative on behalf of an employer
- Updated USCIS website addresses
- Provided acceptable document clarifications
- Updated the process for requesting the paper Form I-9
- Updated the DHS Privacy Notice

III. Use of the Updated Form I-9

In this Notice, USCIS is announcing that as of **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, employers should begin using Form I-9 with a version date of “(Rev. 10/21/2019)” to comply with their employment eligibility verification responsibilities. The version date is located in the bottom corner of the form.

Employers may continue using the prior version of Form I-9 (Rev. 07/17/2017 N) until **[INSERT DATE 90 DAYS FROM THE DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. USCIS is allowing employers this additional time to make necessary updates and adjust their business processes. After **[INSERT DATE 90 DAYS FROM THE DATE OF THE FEDERAL REGISTER]**, however, the prior version of Form I-9 will no longer be valid for use and will be obsolete. The public can download the new Form I-9 from www.uscis.gov/i-9. After **[INSERT DATE 90 DAYS FROM THE DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, employers who fail to use Form I-9 (Rev. 10/21/2019) may be subject to all applicable penalties under section 274A of the INA, 8 U.S.C. 1324a, as enforced by U.S. Immigration and Customs Enforcement (ICE).

Employers do not need to complete the new Form I-9 (Rev. 10/21/2019) for current employees who already have a properly completed Form I-9 on file, unless reverification applies. Unnecessary verification may violate the INA's anti-discrimination provision, section 274B of the INA, 8 U.S.C. 1324b, which is enforced by the Immigrant and Employee Rights Section (IER) in the Department of Justice's Civil Rights Division.

IV. Obtaining Forms I-9 (Rev. 10/21/2019)

Employers may download the new Form I-9 (Rev. 10/21/2019) from the USCIS website at www.uscis.gov/i-9. Employers can order the paper Form I-9 at www.uscis.gov/forms/forms-by-mail. For more information, the public can contact the USCIS Contact Center at 800-375-5283 or visit USCIS' I-9 Central webpage at www.uscis.gov/i-9central.

A Spanish-language version of the new Form I-9 is also available at www.uscis.gov/i-9 for use in Puerto Rico only.

Mark R. Koumans,

Deputy Director.

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